IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

CARLTON HUGHEY SCRANTON, Petitioner,	)	CV 06-29-H-DWM
vs.	)	ORDER
WARDEN MacDONALD, Respondent.	)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on January 29, 2007. Scranton filed a petition for writ of habeas corpus. He is a state prisoner proceeding pro se. Scranton filed objections and is therefore entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). The parties are familiar with the factual and procedural history so they will be recited only as necessary.

Judge Strong rightly concluded that Scranton is not entitled to relief because his petition fails on the merits. Scranton does not have a cognizable liberty interest in parole other than due process review of his parole eligibility. *Erickson v. United*

States, 67 F.3d 858, 861 (9th Cir. 1995). Furthermore, Scranton's due process interests were protected through the standard parole proceedings associated with his record. *Biggs v. Terhune*, 334 F.3d 910, 915 (9th Cir. 2003). Nor is there a valid equal protection claim where there is no evidence of invidious discrimination against him and his constitutional interests. *Turner v. Safley*, 482 U.S. 78, 84 (1987) (citation omitted).

Scranton objects but he does not assert a compelling reason to deviate from Judge Strong's recommendation. The fact that he has twice had his parole denied does not invoke constitutional double jeopardy protection. And contrary to his argument, the United States Supreme Court's recent decision in *Cunningham v. California*, ___U.S.___, 127 S. Ct. 856 (2007) does not preclude this Court's ability to deny his petition.

Accordingly, based upon the foregoing I adopt Judge Strong's Findings and Recommendation (dkt #7) in full: Petitioner's petition for writ of habeas corpus (dkt #1) is DENIED.

DATED this 12th day of February, 2007.

Donald W. Molloy, Chief Judge
United States District Court